

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

E.J. MCELROY, a.k.a. EIBON MCELROY,  
a.k.a. LATWAHN MCELROY, a.k.a.  
LATHWAHN MCELROY,

Plaintiff,

v.

SGT. GUZMAN, et al.,

Defendants.

Case No. 1:25-cv-0748 JLT GSA (PC)

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DENYING  
PLAINTIFF'S MOTION TO PROCEED *IN  
FORMA PAUPERIS*, AND DIRECTING  
PLAINTIFF TO PAY THE FILING FEE  
WITHIN 21 DAYS**

(Docs. 2, 9)

Plaintiff asserts that he suffered violations of his civil rights while housed at Kern Valley State Prison and seeks to proceed *in forma pauperis* in this action. (Docs. 1, 2.) The magistrate judge reviewed Plaintiff's litigation history and found Plaintiff had three actions dismissed for reasons that qualified as strikes under 28 U.S.C. § 1915(g). (Doc. 9 at 4-5.) The magistrate judge found Plaintiff does not allege facts supporting the conclusion that Plaintiff was imminent danger of serious physical injury when he filed the action. (*Id.* at 5.) Therefore, the magistrate judge recommended the Court deny the motion to proceed *in forma pauperis* and direct Plaintiff to pay the filing fee. (*Id.* at 6.)

The Court served the Findings and Recommendations on Plaintiff and notified him that any objections were due within 14 days. (Doc. 9 at 6.) The Court advised Plaintiff that "failure to file objections within the specified time may result in the waiver of certain rights on appeal."

(*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Although the Court granted Plaintiff a 15-day extension of time on July 15, 2025 (Doc. 11), he did not file any objections, and the time do so expired.

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of the case. Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

1. The Findings and Recommendations issued on July 15, 2025 (Doc. 9) are **ADOPTED** in full.
2. Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
3. Within 21 days following the date of service of this order, Plaintiff **SHALL** pay the \$405.00 filing fee in full to proceed with this action.

**Failure to pay the required filing fee as ordered will result in the dismissal of this action without prejudice.**

IT IS SO ORDERED.

Dated: **August 12, 2025**

  
UNITED STATES DISTRICT JUDGE